

AN EYE ON THE HORIZON

Conference Takes Up Water Issues Along the Great Lakes

Dan Egan, a senior water policy fellow at the University of Wisconsin–Milwaukee and author of the 2017 book, *The Death and Life of the Great Lakes* (W. W. Norton & Co.), is an expert on the problems facing the Great Lakes. Few can speak as knowledgeably about those problems.

But Egan also offers a more positive perspective: Drive past a place such as Bradford Beach on Milwaukee’s Lake Michigan shore on a nice summer afternoon and look at how crowded it is. You didn’t see such scenes 40 or 50 years ago, when alewives and other problems often made the water and the shore smelly and unhealthy messes.

The good news and the bad, the potential and the concerns, were offered by Egan and other authorities at a half-day conference at Eckstein Hall in April 2018. The conference, titled “Lake Michigan and the Chicago Megacity in the 21st Century” and cosponsored with the *Milwaukee Journal Sentinel*, brought together two of the major policy interests of Marquette Law School: one focusing on water and the other focusing on the future of the “Chicago megacity.”

There is a strong case for pairing water issues and the future of this “megacity,” the region of 11 million residents extending across 21 counties in southeastern Wisconsin, northeastern Illinois, and northwestern Indiana. For one thing, the abundance of water that Lake Michigan offers is a key to the economic future of the region. For another, some of the most important controversies about Great Lakes water involve the Chicago megacity.

Peter Annin, the keynote speaker, told the 200 officials, researchers, advocates, and engaged citizens at the conference in the Law School’s Lubar Center that the Chicago megacity is “the front line in the Great Lakes water wars.” Annin said, “I think we’re just going to continue to see more” of clashing interests in the area.

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He described turf battles that go back more than a century and continue today about diversions of water from the Great Lakes. Some disputes ended up before the United States Supreme Court. Today, those disputes arise under the framework of the Great Lakes Compact, which prohibits diversions of Great Lakes water to locales outside the Great Lakes basin, with limited exceptions. Annin is director of the Burke Center for Freshwater Innovation at Northland College in Ashland, Wis., and the author of *The Great Lakes Water Wars* (Island Press), the second edition of which was published just this fall (2018).

In his conference keynote, Annin recounted and analyzed the controversy over using Lake Michigan water to supply Waukesha, Wis., which is outside the Lake Michigan basin. He described as well the current debate over whether a diversion of millions of gallons a day of Lake Michigan water should be allowed for the Foxconn factory, which is planned for a Racine County location. Though much closer to the lake than Waukesha, the Foxconn complex nonetheless is located in a community situated partly west of the Lake Michigan watershed. The Great Lakes Compact does not permit a diversion application by a private entity acting on its own behalf, but here local governmental entities would be the conduits.

Shortly after the conference, a group of environmental advocacy organizations filed a formal legal challenge to the approval issued for the Foxconn diversion by the Wisconsin Department of Natural Resources. The challenge is currently pending before an administrative law judge and may wind up in the Wisconsin courts.





Illustration by Jean-Francois Podevin

Continuing the Law School's focus on the Chicago megacity—and on water

The conference was a fresh chapter in Marquette Law School's engagement in exploring the state and future of the Chicago megacity. In 2012, the Law School and the *Journal Sentinel* hosted a conference focused on Milwaukee's future in that megacity, with a special emphasis on the question of how closely Milwaukee should tie its economic future to Chicago. Three years later, in 2015, another conference examined public attitudes in the region, using a special Marquette Law School Poll to advance understanding of how megacity residents view opportunities and challenges, from transportation to tourism.

During the same general period, the Law School launched its Water Law and Policy Initiative, led by Professor David Strifling, to support the Milwaukee region's efforts to become a worldwide leader in water research and policy. Today, the expanded initiative seeks to help establish the Law School, its Lubar Center for Public Policy Research and Civic Education, and, more broadly, Marquette University as a center for study, exploration, discussion, and education concerning water issues.

The conference was the latest in a series of public education efforts by the Water Law and Policy Initiative, including large-scale conferences, public presentations, media appearances, and academic publications. These are often in collaboration with

local partners such as the Marquette University College of Engineering, the City of Milwaukee, The Water Council, and the University of Wisconsin–Milwaukee School of Freshwater Sciences, among others.

Providing a safe and reliable water supply is particularly challenging for most megacities (which are usually defined as metropolitan areas with a population of more than 10 million people). It is also a key determinant of regional success. Unlike many megacities, though, the Chicago megacity is blessed with abundant freshwater supplies, thanks to its location along Lake Michigan.

As a result, water is very tightly intertwined with the region's history, identity, and economy. Drawing on these themes, conference participants explored a variety of important water issues involving the Great Lakes—including collaboration, water wars, water challenges, and water improvements.

Randy Conner, water commissioner of the City of Chicago, and Milwaukee Water Works superintendent Jennifer Gonda discussed the challenges that governments in the region face to fund improvements to decaying and, in some cases, dangerous elements of water infrastructure systems, including lead laterals. Conner and Gonda discussed how the Chicago megacity could drive a revolution of "smarter" infrastructure and innovative water use practices to better serve its citizens and to ensure a stable supply of clean water far into the future.

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Speakers generally agreed that greater collaboration across the Chicago megacity would be beneficial. One step toward more collaboration, of course, involves building stronger relationships among the people who are involved. Bringing people at the heart of water issues together at the conference gave participants opportunities both formally and informally to enhance such relationships. For example, Conner and Gonda could be seen having a lengthy one-on-one conversation in the Zilber Forum after the program ended.

Speaking to a perceived gap between scientific advances and their incorporation into policy decisions, Prof. Sandra McLellan of the UWM School of Freshwater Sciences identified the need for appropriate resources and support for communities in the region to learn from each other's efforts.

Multiple threats to Great Lakes water quality

Another conference panel analyzed various threats to Great Lakes water quality, including invasive species, runoff from diffuse agricultural and urban sources, and climate change. Those challenges—and policy responses to them—will shape the face of the region over the next century.

Molly Flanagan, vice president for policy of the Chicago-based Alliance for the Great Lakes, discussed a proposal in Washington, D.C., to remove the federal Environmental Protection Agency's oversight of ballast dumping by ocean-going ships when they are in the Great Lakes. Ballast dumping has been the way some harmful invasive species have entered the lakes. Giving the United States Coast Guard sole oversight would harm the fight against such invasions, she said.

Egan amplified Flanagan's concerns. The Great Lakes "are perilously close to losing Clean Water Act protection," Egan said. The Clean Water Act has worked remarkably well for the Great Lakes, he said, but it took court action to get the Environmental Protection Agency to acknowledge that ballast water "is indeed a pollutant, every bit as much as anything that comes out of a smokestack or a pipe." Ballast water is a big reason why there are more than 180 non-native species in the lake. It only took one of them, the quagga mussel, to make major changes in the lake's ecology, Egan said.

Egan was dismissive of the idea of the Coast Guard's taking over the monitoring of water issues. The Coast Guard is "interested in . . . what's in the water" only "if it's a sailor," he said. "They're looking out for the safety of people, not the ecology of the lakes."

The United States Senate rejected the proposal to eliminate the EPA's supervision of ballast water a few days after the conference.

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David Striffling

The Paris-based Organisation for Economic Cooperation and Development (OECD) has characterized the Chicago megacity as home to the leading water-related economic cluster in the United States. At the Law School's conference, a panel discussion on the Great Lakes as a tool for regional economic development included descriptions by advocates from Milwaukee and Chicago not only of the advantages of the nation's top water technology cluster's location near an abundant supply of water but also of the need to use the water "wisely and carefully," as Dean Amhaus, president and CEO of The Water Council, based in Milwaukee, put it.

Bob Schwartz, senior policy advisor to the consulate general of Israel to the Midwest, located in Chicago, underscored that call. Schwartz talked about the world-leading technologies related to water that have been pursued in Israel and about avenues for increasing involvement between Israel and the Midwest on water-related work.

Cooperation or competition? Speakers support some of both

The panelists also discussed the perception that Milwaukee and Chicago are competing, rather than cooperating, for business-development opportunities. Panelists from both areas acknowledged that each municipality will want firms to locate within its boundaries, but they also recognized that larger developments, such as Foxconn, are opportunities for cooperation that could advance the interests of the broader region.

The Law School's Striffling said, "Those regional interests have sometimes been obscured by decisions made with a more local focus. The conference laid the groundwork for the Chicago megacity's stakeholders, including its citizens, to chart a new course toward innovative water management and cooperative water stewardship in the years to come."

Michael R. Lovell, president of Marquette University and a longtime champion of Milwaukee's development into a water hub, recounted to the audience a conversation he had several years ago with the head of Kikkoman Foods, the Japanese company known for its soy sauce. Kikkoman located a plant in Walworth County, southwest of Milwaukee. The Kikkoman leader said the company did this because it believed that, 100 years from now, the population base of the United States would be focused in the Midwest—and because "to make great soy sauce, you need great water."

Lovell said the anecdote underscored how participants in the conference needed to think about protecting the supply and quality of water not only for the near future but also for a century from now. ■